

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-30172-MAP

ROBERT DADE,

Plaintiff,

vs.

BOLAND BUILDERS, INC., THOMAS  
M. BOLAND, STUART JONES AND  
MARY ROSE JONES,

Defendants.

DEPOSITION OF: THOMAS BOLAND, called by  
counsel for the Plaintiff, taken pursuant to the  
Federal Rules of Civil Procedure before Leigh B.  
Gershowitz, Certified Shorthand Reporter, Registered  
Merit Reporter, Certified Realtime Reporter and  
Notary Public, at the Offices of O'Connell, Flaherty  
& Attmore, 1350 Main Street, Springfield,  
Massachusetts, on Friday, October 21, 2005,  
commencing at 2:00 p.m.

APPEARANCES:

See Page 2

Leigh B. Gershowitz, CSR, RMR, CRR  
Certified Shorthand Reporter  
Registered Merit Reporter  
Certified Realtime Reporter

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STIPULATIONS

It is agreed by and between the parties that  
all objections, except as to the form of the  
question, are reserved to be raised at the time of  
trial for the first time.

It is further agreed by and between the  
parties that all motions to strike unresponsive  
answers are also reserved to be raised at the time of  
trial for the first time.

It is also agreed that the deponent will  
read and sign the deposition.

It is further agreed by and between the  
parties that notification to all parties of the  
receipt of the original deposition transcript is also  
hereby waived.

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Also in Attendance:

Shawn, Liberty Mutual Insurance Company

1 in relationship to the tarp -- the tarpaper going on?

2 Obviously, they were cut first, but a day or two  
3 before, a week before? Do you recall?

4 **A. Actually, it would be like the day before**  
5 **because this part was just being framed up as we**  
6 **went. Basically, the plywood goes on and they're**  
7 **covered up and we cut them and the paper goes across**  
8 **and then we set the skylights.**

9 Q. And typically do the skylights go in before  
10 the metal roof that goes on?

11 **A. I'm not really familiar with the metal**  
12 **roof. Under normal circumstances with shingles, the**  
13 **skylights would go in and then we shingle around it.**

14 Q. On this particular job, what was the  
15 construction plan? What was the plan that you had in  
16 mind, in terms of the progress? Were you planning to  
17 have the skylights fully installed before the metal  
18 roof went on or what?

19 **A. Yes.**

20 Q. Before Robert Dade's -- strike that.

21 There's been testimony about a walk-through  
22 that occurred shortly before Robert Dade's accident;  
23 do you recall that at all?

18

1 **A. The walk-through would probably be with the**  
2 **discussion of the skylights on the inside of the**  
3 **house.**

4 Q. Right. And do you recall that event?

5 **A. Yes.**

6 Q. Do you recall when that was in relationship  
7 to Robert Dade's accident?

8 **A. That afternoon. Or even later than that.**  
9 **It was during the same day.**

10 Q. Okay. The walk-through was the same day  
11 that Mr. Robert Dade got hurt?

12 **A. Yes.**

13 Q. The walk-through, what was the condition of  
14 the exterior of the roof? Had the plywood been put  
15 in?

16 **A. The plywood was partially put in where the**  
17 **area of the skylight was, yes.**

18 Q. And the skylight holes had been cut?

19 **A. The skylight holes had been cut.**

20 Q. Looking at the top picture as a kind of a  
21 guide, how far from the left-hand edge to the center  
22 of the house had been plywooded?

23 **A. Just to the left of the skylight because**

1 **the existing -- this part over the porch to the left,**  
2 **maybe eight or nine feet didn't even exist yet.**

3 Q. So the roof had been installed and the  
4 plywood up from the center of the house?

5 **A. No. Just from -- actually, just maybe**  
6 **three feet to the right of the skylight -- the right**  
7 **skylight and three feet to the left of the left**  
8 **skylight.**

9 Q. So just the area surrounding the skylights  
10 themselves?

11 **A. The skylights, exactly.**

12 Q. And in addition to the plywood being there,  
13 had the tarpaper been put up there as well?

14 **A. The tarpaper was put in after I put the**  
15 **plywood up, or consecutive order, actually, the next**  
16 **day.**

17 Q. And that was before the walk-through?

18 **A. That was before the walk-through, yes.**

19 Q. Now, what was the condition of the area,  
20 between the right-hand edge of the new plywood and  
21 the center area of the house where the design sort of  
22 changes?

23 **A. Part of it was an existing house and then**

20

1 **maybe -- I don't recall the exact measurements --**  
2 **about three or five feet or maybe even further to the**  
3 **right of the skylight -- of the right skylight was --**  
4 **that's where the addition was and that's where the**  
5 **plywood was.**

6 Q. Was any of it open to the air? If you  
7 stood underneath it, could you see out into the open?

8 **A. From underneath?**

9 Q. Right.

10 **A. Yes. It was still being -- it was still**  
11 **rough frame construction.**

12 Q. What was done to prevent rain from getting  
13 in?

14 **A. That was in the process of doing it right**  
15 **then and there. We were trying to put felt paper**  
16 **down and try to put ice and water down to seal it up**  
17 **to keep the water from coming in the side of the**  
18 **house into the main body of the house.**

19 Q. And was that done before Mr. Dade's  
20 accident, do you know?

21 **A. It was in the process of being done.**

22 Q. Was it completed before his accident?

23 **A. No. It wasn't completed.**

1 meant.

2 A. **"I believe they started in early September**  
3 **2001."**

4 Q. Okay. So started the roofing early  
5 September 2001?

6 A. **That's correct.**

7 Q. Okay. Go ahead.

8 A. **"They had a crew of five or six guys."**

9 Q. Okay.

10 A. **"They were going to put a metal roof on the**  
11 **old part of the house plus the new..." --**

12 Q. Okay.

13 MS. PELLETIER: I think it says  
14 "construction."

15 A. **Is that what it is? "...construction I was**  
16 **adding."**

17 MS. PELLETIER: Adding.

18 BY MR. CVEJANOVICH:

19 Q. Okay. Just keep reading unless I sort of  
20 interrupt.

21 A. **"On the 7th, they were finishing up the**  
22 **garage roof, which was separate from my job. I was**  
23 **working on the new addition and had put in three**

1 **skylights on the front side. We had a..."**

2 MS. PELLETIER: Discussion.

3 A. **Oh, discussion. "...discussion on the**  
4 **flashing for the skylights. And I had to get a**  
5 **different" or a -- "get a different type which was**  
6 **compatible with the metal roof."**

7 Q. Okay. That's the flashing that you had to  
8 get?

9 A. **Yes. That's correct.**

10 Q. I thought you had to get rubber. Was it  
11 flashing rubber?

12 A. **The rubber is flashing.**

13 Q. Okay. Go ahead.

14 A. **It's just a different type.**

15 **"I had to leave for materials at 12:30 to**  
16 **1 o'clock. I was talking to the crew chief, Bob**  
17 **Dade, the..." --**

18 MS. PELLETIER: Son.

19 A. **"...the son of the owner. We were in the**  
20 **driveway."**

21 Q. Go ahead.

22 A. **"They were up around to the side of the**  
23 **house. Our ladder was left on the ground. They had**

1 **put it up and front back" --**

2 Q. "Against the back."

3 A. **Oh. "...against the backside of the house.**

4 **I saw two men, Bob Dade and Mike, on the old house**  
5 **next to the dormer. They said they were looking**  
6 **around the dormer on the old house..."**

7 Q. Okay. Where is the dormer in the  
8 photographs?

9 A. **This would be the dormer here.**

10 Q. Okay. So that's that area that's over the  
11 entranceway?

12 A. **Yeah.**

13 Q. Okay. Here we go.

14 A. **"...to see what they would have to do."**

15 Q. It look his like it says, "I asked."

16 A. **"I asked if there was a problem. They did**  
17 **not" something "on new" --**

18 Q. Oh. "They did not go"?

19 A. **"They did not go on the new part I was**  
20 **working on. I had" something --**

21 Q. "Carved out"?

22 A. **"...carved out the skylight with 30**  
23 **pound..."**

1 Q. Oh. "Covered?"

2 A. **Covered. Yeah. "...covered the roof of**  
3 **the skylight" or something "with 30 pound felt**  
4 **previously a week before or..."**

5 Q. So.

6 A. **"...or so."**

7 Q. All right. Let me stop you there. You  
8 wouldn't cover the roof until after the skylight  
9 holes were cut in, correct?

10 A. **The skylight -- the roof wouldn't get**  
11 **covered until after it's cut in from the plywood.**

12 Q. Let me reask it. The process would be, you  
13 put the plywood down and then cut the holes and then  
14 put the tarp on, correct?

15 A. **That is correct.**

16 Q. I'm sorry. I called it tarp. Tarpaper?

17 A. **The paper, yeah.**

18 Q. The statement, correct me if I'm wrong,  
19 says that the tarpaper had gone up about a week  
20 before the events that you were talking about that  
21 day, with the ladder and asking Dade if there was a  
22 problem and stuff like that; is that correct?

23 A. **Yeah. It says a week or so.**

1 Q. So the holes for the skylight and the  
2 tarpaper had been up for roughly a week when the  
3 events that are taking place in order of the upper  
4 middle part of the second page of the statement  
5 occurred?

6 MS. PELLETIER: Objection.

7 Go ahead.

8 A. **I don't know if it was a week or at the**  
9 **time I didn't know if we were 100 percent sure.**

10 BY MR. CVEJANOVICH:

11 Q. But when you say 30-pound felt previously a  
12 week before or so, it was a week before or so the day  
13 that you and Bob were looking at the dormer and  
14 around the dormer, correct?

15 MS. PELLETIER: Objection.

16 Go ahead.

17 A. **I don't recall.**

18 Q. Okay. Let me start over again, then.  
19 Picking up where it says, "My ladder was left on the  
20 ground. They put it up against the backside of the  
21 house. I saw two men, Bob Dade and Mike, on the old  
22 house next to the dormer. They said they were  
23 looking around the dormer on the old house to see

1 what they would have to do. I asked if there was a  
2 problem. They did not go on the new part I was  
3 working on. I had covered" something "the skylight  
4 with 30-pound felt previously a week before or so."  
5 Correct?

6 A. **Yes. But I don't know if it's at the same**  
7 **time of the discussion which he was asking me about.**

8 Q. All right. What else would you have meant  
9 by "I had covered up the skylights with 30-pound felt  
10 previously a week before or so"?

11 MS. PELLETIER: Objection.

12 Go ahead.

13 A. **I think they -- you asked me whether or not**  
14 **I had seen anybody up there and then there was**  
15 **another question whether the paper was -- or when the**  
16 **paper was put on.**

17 BY MR. CVEJANOVICH:

18 Q. Okay. But were you saying that the paper  
19 was put on a week or so before Bob Dade and Mike were  
20 on the old house up on the ladder?

21 A. **No. I'm not saying that.**

22 Q. Okay. Well, then, help me out with what  
23 you're saying about the -- putting the felt up a week

1 or so before, a week or so before what?

2 A. **The statement -- as the statement goes**  
3 **through, there's a series of questions he asked me**  
4 **and it's just kind of all blended together.**

5 Q. I'm sorry.

6 A. **Referring back to the felt paper, what I**  
7 **say in the statement is it was put on a week or so**  
8 **prior to --**

9 Q. Right. And I'm trying to ask you prior to  
10 what?

11 A. **I don't know. I don't remember what the**  
12 **question was.**

13 Q. All right. Now, the next statement picking  
14 up says, "Bob and Mike had been inside the new  
15 addition and looked up to see the openings for the  
16 skylight," correct?

17 A. **That's correct.**

18 Q. Having that sentence after the sentence  
19 saying that you had covered up the skylight with  
20 30-pound felt previously a week before or so, does  
21 that help you --

22 A. **No, it doesn't.**

23 Q. -- recall what you meant by that?

1 A. **No, it doesn't.**

2 Q. And, again, follow along, "I pointed them  
3 out with owner Mr. Jones," meaning what, pointed them  
4 out?

5 A. **We were inside the house looking up at the**  
6 **skylights. Pointing them out to Bob and his helper,**  
7 **I guess, Mike.**

8 Q. "I stayed" -- "I stopped" --

9 MR. RYDER: Home.

10 A. **"Stopped home."**

11 BY MR. CVEJANOVICH:

12 Q. "Later in the day and my wife had call that  
13 Bob..." --

14 A. **"Bob had" -- it's crossed out. "...Bob had**  
15 **fallen through a skylight."**

16 Q. Something is crossed out and then it says,  
17 "had fallen through a skylight. I rushed back" or  
18 something back, "but the crew was gone. There was a  
19 hole in the felt paper. The homeowners were home at  
20 the time. When I spoke to Mike the next week, he  
21 said Bob forgot about the skylights." Who is Mike?

22 A. **Mike would be the helper.**

23 Q. I thought you had said earlier that you did